

REMARKS

Claims 1-16 and 21-24 are pending. Claims 1-16 and 21-24 stand rejected. Claims 1, 6, 11 and 16 have been amended herein without prejudice or disclaimer. The present amendment corrects perceived errors in the structures of the recited compounds. Support for these changes may be found throughout the specification as described hereinbelow. No new matter is entered by way of these amendments. Reconsideration is respectfully requested.

Objection to the Specification

The Examiner objects to the specification for the reasons substantially as discussed below, concerning the generic structure of the recited dye. As suggested by the Examiner, the specification has been amended herein to correct the 3-position of the dihydroindolyl moiety to reflect the presence of a methyl substituent. This correction does not enter new matter into the specification. That this correction is supported by the specification and is not new matter is admitted by the Examiner at page 2 of the Office Action, which states that the correction is supported by the many syntheses depicted throughout the specification.

Reconsideration and withdrawal of the objection to the specification are respectfully requested.

Rejections Under 35 U.S.C. § 112, First Paragraph

Claims 1-16 and 21-24 stand rejected under 35 U.S.C. § 112, first paragraph, for failing to comply with the enablement requirement. (*See*, Office Action of August 8, 2007, at page 2). Applicants traverse the rejection as set forth herein.

The Examiner states that the claims encompass compounds having no methyl group in the 3-position of the dihydroindolyl moiety, for instance in claims 1, 6, 11 and 16. However, the Examiner contends there is only support in the specification for structures having a methyl substituent on position 3 of this moiety.

Although Applicants do not agree that the claims lack enablement support in the specification, to expedite prosecution, claims 1, 6, 11 and 16 have been amended herein, without prejudice or disclaimer, to recite structures having a methyl group at the 3 position in the dihydroindolyl moiety as requested by the Examiner. As stated by the Examiner, support for this change may be found throughout the specification, for instance, the representative syntheses depicted throughout the specification.

Therefore, reconsideration and withdrawal of the enablement rejection of claims 1-16 and 21-24 are respectfully requested. This being the only remaining issue barring allowance, allowance of the presently pending claims is also earnestly requested.

CONCLUSION

If the Examiner has any questions or comments, please contact Thomas J. Siepmann, Ph.D., Registration No 57,374, at the offices of Birch, Stewart, Kolasch & Birch, LLP.

If necessary, the Commissioner is hereby authorized in this, concurrent, and future replies, to charge payment or credit any overpayment to our Deposit Account No. 02-2448 for any additional fees required under 37 C.F.R. § 1.16 or under § 1.17; particularly, extension of time fees.

Dated: November 8, 2007

Respectfully submitted,

By 

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